

The Senate Transportation Committee offered the following substitute to SB 256:

A BILL TO BE ENTITLED
AN ACT

To amend Part 2 of Article 3 of Chapter 6 of Title 32 of the Official Code of Georgia Annotated, relating to outdoor advertising signs on the interstate system, primary highways, and other highways, so as to provide for certain height limitations on such outdoor advertising signs and for certain conditions for lowering of existing signs in excess of such height limitations on or after July 1, 2008; to provide for certain changes in the sizes of trees permitted to be trimmed or removed from the viewing zones of such signs and for certain changes to the extent of such viewing zones; to provide for matters relative to the foregoing; to provide for severability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Part 2 of Article 3 of Chapter 6 of Title 32 of the Official Code of Georgia Annotated, relating to outdoor advertising signs on the interstate system, primary highways, and other highways, is amended in Code Section 32-6-75, relating to restrictions on outdoor advertising signs authorized by Code Sections 32-6-72 and 32-6-73, by striking in such Code section the word "or" at the end of paragraph (20) of subsection (a) thereof, by striking the period at the end of paragraph (21) of such subsection and inserting in lieu thereof the symbol and word "; or", and by inserting at the end of such subsection a new paragraph to read as follows:

"(22) After July 1, 2008, exceeds 75 feet in height as measured from the top of the sign to the pavement level of the traveled way, but any sign erected after that date shall be granted a permit for trimming or removal of vegetation within the viewing zone thereof pursuant to the provisions of Code Section 32-6-75.4 at the time that a permit for such sign is granted as authorized by Code Section 32-6-74 and Code Section 32-6-79. Provided, however, that signs exceeding such height lawfully in existence on such date may be maintained if otherwise in compliance with the provisions of this part, but the provisions of Code Section 32-6-75.4 shall not apply to such signs unless lowered so as not to exceed such height. The department shall expedite and coordinate the processing

1 of applications for permits under Code Section 32-6-75.4 with the processing of
2 applications for permits under Code Section 32-6-74 and Code Section 32-6-79 such that
3 applications under such latter Code sections shall not be delayed. The General Assembly
4 finds and declares that reducing the height of outdoor advertising signs serves the public
5 purpose and function of roadside beautification and enhancement and confers a
6 substantial benefit upon the state and the public. The General Assembly further finds and
7 declares that this legislation provides further balance between highway beautification and
8 the public interests served by outdoor advertising signs. The General Assembly also
9 encourages the department to support Georgia Scenic Byways in this state, pursuant to
10 department regulation. However, the procuring of rights and interests providing for
11 reduction in the height of such signs imposes a substantial immediate and long-term cost
12 upon the owners of such signs. Accordingly, no sign which exceeds 75 feet in height on
13 July 1, 2008, shall be required to be reduced to or below such height unless the owner and
14 the department enter into an agreement providing for the granting or renewal of a permit
15 for trimming or removal of vegetation within the viewing zone of such sign pursuant to
16 the provisions of Code Section 32-6-75.4. Such agreement shall provide that such
17 permits or renewals shall be issued without the fee provided for by paragraph (1) of
18 subsection (e) of said Code section, as just and adequate compensation to the owner, but
19 all other provisions of Code Section 32-6-75.4 as amended shall be applicable to such
20 permits and renewals. The procedures and requirements for issuance of such permits
21 established by this paragraph shall be an alternative to the procedures provided for by
22 Code Section 32-6-75.4, and the option to proceed under this paragraph or such Code
23 section shall be at the election of the owner. Reduction in height pursuant to the
24 provisions of this paragraph shall be permitted irrespective of otherwise applicable
25 ordinances or regulations."

26 SECTION 2.

27 Said part is further revised by enacting a new Code section to read as follows:

28 "32-6-75.4.

29 (a)(1) For purposes of this Code section, the term:

30 (A) 'Removal' or 'removed' means the elimination of trees or other vegetation from a
31 viewing zone.

32 (B) 'Trimming' or 'trimmed' means the pruning of excess limbs or branches from trees
33 or other vegetation which are not removed from a viewing zone.

34 (C) 'Viewing zone' means a continuous 500 foot horizontal distance parallel to a state
35 right of way and adjacent to or otherwise within the line of sight of an outdoor
36 advertising sign.

(2) The provisions of this Code section shall apply to all new outdoor advertising signs and all signs that have been lowered to 75 feet or less as measured from the top of the sign to the pavement level of the traveled way on or after July 1, 2008. The General Assembly finds and declares that outdoor advertising provides a substantial service and benefit to Georgia and Georgia's citizens as well as the traveling public. Therefore, the General Assembly declares it to be in the public interest that provisions be made for the visibility of outdoor advertising signs legally erected and maintained along the highways in this state to provide information regarding places offering lodging, food, motor vehicle fuels and lubricants, motor service and repairs, or any other services or products available to the general public. Recognizing, however, that the beautification of this state and the health of its environment are absolutely essential and equally as important to the traveling public, the General Assembly finds and declares that these needs must be balanced.

(b) So as to promote these objectives and in accordance with the provisions of this Code section, the commissioner shall provide by a minimum of rule or regulation for the issuance and annual renewal of permits for the trimming and removal of trees and other vegetation on the state rights of way within viewing zones with respect to outdoor advertising signs legally erected and legally maintained adjacent to said rights of way. Such rules and regulations shall be substantially limited to standards for survival of vegetation trimmed or planted conforming to American National Standards Institute standards for tree care operations. Such permits whenever issued shall allow or be deemed to allow trimming or removal of vegetation in conformance with this Code section as amended from time to time, except as otherwise provided by this part.

(c) Application for a tree or vegetation trimming or removal permit and the annual renewal thereof shall be made upon the forms prescribed and provided by the department and shall contain the signature of the applicant and such other information as may be required by the department's rules and regulations.

(d) An application fee shall accompany the application for each vegetation maintenance permit and both the application and fee shall be submitted to the department. There shall be an annual renewal of the permit for activities in the original scope of the permit. The department shall promulgate rules and regulations setting forth the application fees and renewal fees. Such application and renewal fees shall be established by the department in reasonable amounts in order to fully recover the costs of administering the vegetation maintenance program.

(e)(1) The department shall evaluate each application for a permit under this Code section and require as a condition of granting any permit under this Code section that the value of the landscaping to be either provided or paid for by the applicant is not less than the department's appraised value of the benefit to be conferred by the state upon the

1 applicant by allowing the trimming or removing of trees or other vegetation as requested,
2 which shall be the average value determined by averaging two appraisals of fair market
3 value performed by two independent registered foresters, chosen by the permittee, with
4 the costs to be paid by the permittee, with fair market value determined in accordance
5 with the published timber prices contained in Timber Mart-South, a publication
6 maintained by the Center for Forest Business, the Warnell School of Forest Resources,
7 and the University of Georgia; provided, however, that a permit may be granted to an
8 otherwise qualified applicant in a case where the value of the landscaping to be either
9 provided or paid for by the applicant is less than the department's appraised value of the
10 trees or other vegetation to be trimmed or removed if, in addition, the applicant pays to
11 the department an amount equal to the amount of the difference between the value of the
12 landscaping to be either provided or paid for by the applicant including one-half of the
13 applicant's appraisal costs and the department's appraised value of the trees or other
14 vegetation to be trimmed or removed. Such funds paid shall be deposited in the Roadside
15 Enhancement and Beautification Fund and one-half of such funds shall be expended
16 within four months of the end of the fiscal year in which the funds are received.

17 (2)(A) No trees or vegetation shall be trimmed or removed under this Code section
18 other than within a viewing zone.

19 (B) No removal of any historic or endangered species tree or any tree planted as part
20 of any local, state, or federal government project shall be permitted under this Code
21 section; provided, however, that after July 1, 2008, no local or state project shall plant
22 any tree within a viewing zone, and the department is prohibited from expending state
23 or federal funds to plant any tree within a viewing zone other than erosion preventive
24 ground covering, grasses, or wildflowers, provided, that in no event shall invasive
25 plants be planted, including, but not limited to, kudzu and bamboo.

26 (C) All trees may be removed from within a viewing zone using best efforts to create
27 a conical view zone so that the cleared area does not exceed the width of the outdoor
28 sign plus ten feet on either side at the edge of the sign face and does not exceed 500 feet
29 horizontal distance parallel to the pavement of the traveled way.

30 (3) An applicant's record of conduct regarding disturbance of trees or other vegetation
31 on state rights of way shall be considered by the department as part of the evaluation
32 process for any permit or permit renewal application.

33 (4) A performance bond in an amount adequate for the requirements of the permit as
34 determined by the department shall be required of each permittee.

35 (f)(1) No trees or other vegetation on state rights of way shall be trimmed, killed, or
36 removed by any person other than in accordance with a permit issued under this Code

1 section by any person other than the department or an authorized agent or contractor
2 thereof.

3 (2) No outdoor advertising sign to which a permit under this Code section is applicable
4 shall be unused for advertising for a period of six consecutive months or more.

5 (3) On and after July 1, 2008, no outdoor advertising sign to which a permit under this
6 Code section is applicable shall be maintained in such a condition of disrepair as to be
7 unusable for advertising.

8 (4)(A) In cases where the department has reasonable cause to believe that a violation
9 of this subsection has been committed by any person, the procedures provided under
10 Code Section 32-6-95 shall apply the same as in cases wherein the department believes
11 that a sign is being maintained in violation of this part.

12 (B) Following notice, hearing, and a finding that a person has committed a violation
13 of paragraph (1) of this subsection, a civil fine of not less than \$10,000.00 nor more
14 than \$20,000.00, and restitution in an amount equal to the appraised value of the trees
15 or vegetation, or both, which were unlawfully trimmed or removed, shall be imposed
16 on such person.

17 (C) Following notice, hearing, and a finding that a permittee under this Code section
18 has committed a violation of paragraph (2) of this subsection, an order directing the
19 removal of such unused sign, at the expense of the permittee, shall be issued.

20 (D) Following notice, hearing, and a finding that a permittee under this Code section
21 has committed a violation of paragraph (3) of this subsection, an order directing the
22 removal of such unusable sign shall be issued.

23 (E) The department or its authorized agents shall be authorized to enter upon private
24 lands and disassemble and remove signs without civil or criminal liability therefor
25 pursuant to an order issued in accordance with this paragraph and as provided by Code
26 Section 32-6-96 for disassembly and removal of illegal outdoor advertising signs.

27 (F) The five-year vegetation management waiting period contained in paragraph (2)
28 of subsection (b) of Code Section 32-6-75.3 shall not apply to permits issued under this
29 Code section."

30 SECTION 3.

31 In the event any section, subsection, sentence, clause, or phrase of this Act shall be declared
32 or adjudged invalid or unconstitutional, such declaration or adjudication shall affect and
33 invalidate the whole of the section in which such matter appears herein, but shall in no
34 manner affect the other sections, subsections, sentences, clauses, or phrases of this Act,
35 which shall remain of full force and effect as if the section, subsection, sentence, clause, or
36 phrase so declared or adjudged invalid or unconstitutional were not originally a part hereof.

1 The General Assembly declares that it would have passed the remaining parts of this Act if
2 it had known that such part or parts hereof would be declared or adjudged invalid or
3 unconstitutional, but would not have passed any section of this Act containing or constituting
4 an invalid or unconstitutional provision.

5 **SECTION 4.**

6 This Act shall become effective on July 1, 2008.

7 **SECTION 5.**

8 All laws and parts of laws in conflict with this Act are repealed.